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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,363	01/30/2004	Eduardo Jimenez	IR 7433-01	6548
23909	7590	12/08/2006	EXAMINER	
COLGATE-PALMOLIVE COMPANY			GUIDOTTI, LAURA COLE	
909 RIVER ROAD			ART UNIT	
PISCATAWAY, NJ 08855			PAPER NUMBER	

1744

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,363

Applicant(s)

JIMENEZ ET AL.

Examiner

Laura C. Guidotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-43,45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-43,45 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09252006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 37-43 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kott, USPN 3,196,299 in view of Braun et al., USPN 6,553,604.

Kott discloses a power toothbrush comprising a handle (24), a cleaning head attached to the handle (21), a power source of batteries (55, 56), an electrical motor (27), and a mechanical vibratory device (28, an eccentric weight; Column 2 Lines 65-69), the cleaning head (21) having a plurality of cleaning/treating elements (unlabeled, shown in Figure 1). Kott does not disclose that the plurality cleaning/treating elements have characteristics that differ from other cleaning/treating elements. However, Kott

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teaches a powered device that accepts the heads of conventional toothbrushes so that there is a greater variety of toothbrushes available to a user so that the user has the most desirable bristle hardness, brush contour, etc. and an interchangeable head so that more than one user can use the powered portion of the device (Column 1 Lines 22-36).

Braun et al. teaches a toothbrush having a head that comprises a first end adjacent a handle (portion adjacent "10") and a free end (leftmost end shown in Figure 1) includes a first cleaning/treating element adjacent the first end that is non-movable relative to the first end (the first cleaning/treating element is the bristle tuft marked "14" nearest portion marked "10" in Figure 1), a second cleaning/treating element adjacent the free end that is non-movable relative to the free end (leftmost bristle tuft marked "14" as shown in Figure 1), and a plurality of third cleaning/treating elements disposed between first and second cleaning/treating elements (16 or 30), wherein each of the plurality of third cleaning/treating elements extends from one of a plurality of support structures (18) having at least a portion that is movable relative to the cleaning head (Figures 2-3; Column 2 Lines 61-67), and wherein each of the plurality of third cleaning/treating elements is movable independent of any other third cleaning/treating element (Figures 2-3 show that each cleaning/treating element "16" rotates freely in a socket and therefore has independent motion; Abstract; also cleaning elements "30" rotate freely; Column 2 Lines 35-37), and further comprising a plurality of channels extending transversely across a surface of the cleaning head from which the cleaning/treating elements extend (channels are 25, and extend in a transverse

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direction across a surface as shown in Figure 1) and separating a support structure from one of an adjacent support structure, the free end, or the first end (as 25 separate a support structure 18 from another support structure 18, the free end, and the first end, see Figure 1). The support structure is capable of enabling angular movement of the third cleaning/treating elements relative to the cleaning head (Column 3 Lines 44-48; see Figures). The first and second cleaning elements are bristle tufts (14). The plurality of third cleaning/treating elements that are disposed between the first and second cleaning/treating elements (see Figures) include bristle tufts (Column 3 Line 61 to Column 4 Line 2). The cleaning head further comprises at least two cleaning/treating elements having different cross sections (see Figure 1; the first elements have a circular cross section, the second have an elongated cross section, and the third cross section is even more elongated). Also, at least one of the cleaning/treating elements extends further from the cleaning head than at least one other of the cleaning/treating elements (as shown in Figure 1). The second cleaning/treating element includes a tuft that follows at least a portion of a contour of the free end of the cleaning head (the leftmost bristle tuft marked "14" as shown in Figure 1 follows "at least a portion" of the contour of the free end). Braun et al. provide these third elements (16, 30) so that chances are increased that the tooth cleaning element will be in contact with the teeth during brushing and that the brush will be more attractive in appearance (Column 1 Lines 59-64) and to penetrate between teeth (Column 2 Lines 39-40).

It would have been obvious for one of ordinary skill in the art to provide the toothbrush device of Kott with a manual toothbrush that includes a brush head having

three cleaning/treating elements, as Braun et al. teach, in order to provide a cleaning elements that remain in contact with the teeth during brushing, penetrate between teeth, and are attractive in appearance.

Response to Arguments

2. Applicant's arguments filed 25 September 2006 have been fully considered but they are not persuasive.

As mentioned above, Braun et al. does in fact include transversely extending channels (25, not labeled in Figure 1, however are the channels in which element 16 extends). The apertures or channels 25 extend in the transverse direction, Figure 1, and the plurality of channels 25 extend across a surface of the cleaning head, also shown in Figure 1. Sockets 20 are only a portion of the channel 25 (Column 3 Lines 25-26).

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER